



**Massachusetts Department of Housing and Community Development
Division of Housing Stabilization**

To: DHCD Field Staff
From: Ita Mullarkey, Acting Associate Director *W*
Date: December 7, 2012
RE: Housing Stabilization Notice 2012-07A, Guidance on Verification of Domestic Violence

Introduction

This Housing Stabilization Notice (HSN) explains how Homeless Coordinators are to verify domestic violence when domestic violence is one of the reasons for homelessness for purposes of qualifying for Emergency Assistance (EA) temporary emergency shelter benefits. Pursuant to 760 C.M.R. § 67.06 (1) (a) 1., a family may become eligible for EA if it: “is at risk of domestic abuse in their current housing situation or is homeless because the head of household previously fled domestic violence.” Relationships involving domestic violence may differ in terms of the severity of abuse, but incidents of domestic violence meeting the definition in this HSN and verified as provided will all be considered qualifying forms of domestic violence in order to access EA temporary emergency shelter on the basis of domestic violence. When analyzing an EA application based on domestic violence, the homeless coordinator should bear in mind that domestic violence is typically associated with a pattern of coercive control by the perpetrator over the victim. This pattern is typically manifested through the establishment by the perpetrator of control and fear in his or her relationship with the victim through the use of violence *and* other forms of abuse detailed in the definition of domestic violence contained in this HSN. This HSN supersedes and renders obsolete HSN 2012-07.

Summary

760 C.M.R. § 67.06 (1) (e) 5. allows DHS to issue guidance as to appropriate verifications for “domestic abuse” and “domestic violence.” When a Homeless Coordinator is considering a family’s application for EA temporary emergency shelter on the grounds that the family lost its housing due to domestic violence, the applicant must

provide at least one of the following documents in order to verify domestic abuse or domestic violence.¹ Any document submitted must be determined by the homeless coordinator to be reliable and authentic.

- Medical documentation of injuries likely to have been caused by domestic violence
- Third-party professional documentation—including psychological reports or documentation from a licensed therapist, counselor, domestic violence professional, director of a social service agency, or a member of the clergy acting in a counseling role—based upon independent review of credible facts
- Police report of a single serious occurrence with evidence of physical injury or multiple reports of non-physical altercations
- Court reports
- Documentation of attempt(s) to obtain a restraining order, including application and substantiating documentation and/or documentation showing status and results of an application, including whether a restraining order has been granted
- Documentation of charges filed against accused, including copy of charges filed and substantiating documentation
- Documentation of initiation of other legal action indicative of the existence of domestic violence
- Letter from attorney stating the facts of a legal case initiated, including substantiating documentation
- Documentation showing change of address, which was likely caused by domestic violence, when documentation verifies that the cause of the change was domestic violence such as (a) transfers to another unit owned by the same property owner, (b) transfers permitted pursuant to the terms of a subsidized housing program enrolled in by the applicant, (c) forming a co-tenancy or subtenancy with a friend or relative, or (d) entering a specialized shelter for victims of domestic violence;
- A finding within the past 12 months by the Department of Transitional Assistance of good cause for exemption from time-limited TAFDC benefits, family caps, or

¹ Although the budget line item refers to both “domestic abuse” and “domestic violence,” the terms are considered equivalent for purposes of EA eligibility. The term “domestic violence” will be used in this Housing Stabilization Notice as the more common of the terms.

child support payments on the basis of domestic violence under 106 CMR § 201.110, **provided that it can be determined from the finding that the underlying domestic violence complies with the level of reliability and definition of “domestic violence” adopted in this HSN.**

- Other forms of third-party verification of similar authenticity and reliability to those listed above.

Discussion

Meaning of Domestic Violence

For purposes of EA eligibility, “domestic violence” and “domestic abuse” are defined in 760 C.M. R. § 67.06 (1) (f) 1.. This HSN provides some additional references for the interpretation and application of the regulation. For purposes of EA eligibility, “domestic violence” and “domestic abuse” mean the occurrence of one or more of the following acts between intimate partners, family members, or household members:²

- (1) physical acts that resulted in, or threatened to result in, physical injury;
- (2) sexual abuse;
- (3) sexual activity involving a dependent child of one or both of the intimate partners;
- (4) being forced to engage in nonconsensual sexual acts or activities;
- (5) threats of, or attempts at, physical or sexual abuse;
- (6) a pattern of coercive control ;
- (7) neglect or deprivation of medical care; or
- (8) stalking.

See 106 C.M.R. § 203.110 (A).

For purposes of this definition, “sexual abuse” means:

- (a) attempting to cause or causing physical harm;
- (b) placing another in fear of imminent serious physical harm; or
- (c) causing another to engage involuntarily in sexual relations by force, threat or duress.

See G.L. c. 209A, § 1 (definition of *abuse*).

For purposes of this definition, “intimate partner” means:

a current or former spouse of the applicant, a person with whom the applicant shares a child in common, a person who is cohabitating with or has cohabitated as a couple in an interdependent relationship that is

² Note that violence by other household members, aside from intimate partners, is covered as a form of health and safety violation when the applicant is not a primary tenant and by the applicants right to exclude when the applicant is a primary tenant..

intended to be long term, or a person who is or has been in a substantive dating or engagement relationship with the applicant, which shall be determined based on consideration of the following factors: (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

See 42 U.S.C. § 13925 (a) (6) (federal Violence Against Women Act); G.L. c. 209A, § 1, *family or household member* (e).

For purposes of this definition, family or household member means individuals who:

- (a) are or were married to one another;
- (b) are residing together in the same household;
- (c) are or were related by blood or marriage;
- (d) have a child in common regardless of whether they have ever married or lived together

See G.L. c. 209A, § 1, *family or household member* (a)–(d).

For purposes of this definition, “stalking” means:

- (1) willfully and maliciously engaging in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, *and* (2) making a threat with the intent to place the person in imminent fear of death or bodily injury.

See G.L. c. 265, § 43.

For purposes of this definition, “coercive control” means:

- (1) willful or knowing acts, courses of action, or demands and credible threats;
- (2) with intent to establish and maintain power and control over the life, decisions, relationships or activities of an intimate partner; and
- (3) that reasonably would cause a person in the situation to engage in conduct in which that person otherwise would not, or to abstain from conduct in which that person otherwise would, engage.

See Jeffrey R. Baker, *Enjoining Coercion: Squaring Civil Protection Orders with the reality of Domestic Abuse*, 11 J. L. & Fam. Stud. 35, 59 (2008).

Use of Verifications

In order to demonstrate that a family became homeless because of domestic violence, the applicant must demonstrate that:

- (1) the applicant has been displaced, or is imminently faced with displacement, from his or her *primary* residence³ because of domestic violence.
- (2) the applicant household has pursued ways to prevent or avoid the current or immediately pending homeless living situation;
- (3) the applicant household has not caused or contributed to the present living situation,⁴ a condition of which shall be that the alleged perpetrator of the domestic violence may not be a member of the EA applicant household; and
- (4) in the case of coercive control, that the applicant was determined by a health care professional to be subject to mental or emotional abuse and the health care provider must state that there is a connection between the domestic violence and the reason the family cannot stay in its current location.

All forms of verification listed in the Summary above are not required. Because certain actions on the part of victims of domestic violence can trigger violent acts by the offenders, no particular item can be mandated as the required form of verification. Nevertheless, at least one of the verifications listed in the Summary must be presented, or another form of third-party verification of similar authenticity and reliability. It is the applicant's responsibility and burden to demonstrate that the applicant family meets the qualifications for EA eligibility. If any verification relied upon appears vague, the Homeless Coordinator must obtain additional listed documentation until the Homeless Coordinator feels that the applicant family has substantiated, based on all the documents submitted, by a preponderance of the evidence, that it is more likely than not that the family is homeless because of domestic violence. The verification(s) relied upon shall be considered together by the Homeless Coordinator when making a finding about whether the applicant family meets the requirements of the qualified class of EA eligibility based on homelessness due to domestic violence.

³ The primary residence is housing that constitutes safe, permanent housing for the applicant family, as described in Housing Stabilization Notice 2012-05.

⁴ There is a rebuttable presumption that the applicant family did *not* contribute to the domestic violence situation.

Meaning of “Previously Fled” Domestic Violence

A family is considered to have previously fled domestic violence if it left its last “safe, permanent housing”⁵ because of domestic violence and has remained continuously homeless since losing its last permanent housing.⁶ A family may obtain intervening housing if the family leaves permanent housing because of domestic violence and then obtains new permanent housing or housing that would qualify as permanent housing, except that such housing is affordable to the family only because it is subject to a time-limited subsidy for a term of longer than 12 months. *See* HSN 2012-05. If the family obtains intervening housing and then loses it, the reason for the family’s homelessness is the reason that it lost the intervening housing, not the original permanent housing.

If a family applying for EA on the basis of homelessness due to domestic violence has resided for more than 30 days in the unit of another principal tenant, a rebuttable presumption is raised that the applicant family has become a subtenant of the principal tenant. The presumption is rebuttable upon a demonstration by the applicant that no subtenancy was created, based on all the evidence submitted and considering the totality of the circumstances.

If a family left its last permanent housing more than 60 days prior to application, and has remained continuously homeless since then, the applicant family must provide documentation dating to approximately the date that the family became homeless demonstrating that the cause of homelessness was domestic violence. In other words, for

⁵ The definition of “safe, permanent housing” is contained in 760 C.M.R. §67.06 (4) (b) 2. a.. *See* HSN 2012-05. Under the regulatory definition, housing is “safe, permanent housing” until it becomes unsafe for the family because of domestic violence. *See* 760 C.M.R. §67.06 (4) (b) 2. a.. When a family leaves housing that would otherwise be “safe, permanent housing” except for the issue of domestic violence, the date that the housing ceased to be “safe, permanent housing” for that family will be considered the date that the family left that housing, not the date that domestic violence started to occur. Because, in such cases, “safe, permanent housing” has ceased to be safe, in this memorandum it will be referred to as “permanent housing.”

⁶ A family remains continuously homeless so long as it does not obtain safe, permanent housing or housing that would be safe, permanent housing except that it is subject to a time-limited rental subsidy lasting more than 12 months. A family that obtains housing that would be safe, permanent housing except that it is subject to a time-limited rental subsidy lasting for 12 months or less will be considered continuously homeless for these purposes, although the family will have feasible alternative housing while the subsidy that last 12 months or less is in effect. A family that obtains temporary feasible alternative housing, as defined in 760 C.M.R. § 67.06 (A) (2), that does not qualify as safe, permanent housing (or safe, permanent housing except that it is subject to a time-limited rental subsidy of longer than 12 months) still remains continuously homeless.

an applicant family to be determined eligible due to domestic violence more than 60 days in the past, at least one of the forms of verification of domestic violence listed in the Summary, or other documentation of similar reliability, must be dated close in time to the domestic violence incident. For these purposes, written third-party professional documentation as detailed in the Summary will be considered close in time to the domestic violence incident, even if it is obtained shortly before the time of application or during the presumptive eligibility period, if the documentation represents as the professional opinion of the writer that he or she believes, based on credible evidence and reasonable investigation, that a member of the applicant family was a victim of domestic violence at the time that, or shortly before, the family fled its last safe, permanent housing and that the family did flee from its last safe permanent housing because of the domestic violence.

Referral to DTA Domestic Violence Specialist for Safety Recommendation/Assessment

The EA budget line item provides that “a family who receives emergency housing assistance due to domestic abuse shall be connected to the appropriate social service agency.” All families who are determined eligible for EA due to domestic violence must be referred to the Department of Transitional Assistance (DTA) Domestic Violence Specialist assigned to the relevant office for a domestic violence assessment. All Families that are assessed by the DTA Domestic Violence Unit will be referred to a local domestic violence program and /or SAFELINK.

The purposes of the domestic violence assessment are: (1) to assist the DHS Placement Unit in placing a family that has been victimized by domestic violence outside the “danger zone” where the perpetrator of the domestic violence may readily locate the family and resume the abuse or otherwise retaliate against the family,⁷ and (2) to the extent of their specialized knowledge and depending upon availability of resources, to assist the EA participant and shelter staff in location of appropriate resources. The domestic violence assessment cannot be used to verify the cause of homelessness.

⁷ Note that there are special considerations involved when placing a family that contains victims of domestic violence when the alleged perpetrator of the domestic violence actively shares custody of the children of the household with the EA participant parent. Such situations should be brought to the attention of the Placement Unit for a specialized placement addressing these concerns.

In addition to families who apply for EA benefits due to domestic violence, the Homeless Coordinator should also offer to refer other EA eligible families to the Domestic Violence Specialist for an assessment if, during the application process, the applicant discloses a history of domestic violence that did not directly lead to the family's current homelessness, but that occurred less than thirty days before application or that has left the applicant in fear of being currently at risk of a recurrence of domestic violence. Such an assessment may be used to assist in referral of the family to services, placement, and housing search.

Finally, the Homeless Coordinator should also offer to refer other EA applicant families to the Domestic Violence Specialist if, during the application process, the applicant discloses a history of domestic violence that did not lead to the family's current homelessness, that occurred more than thirty days before application, and that does not leave the applicant in fear of being currently at risk of a recurrence of domestic violence. In such cases, depending upon the availability of resources, the Domestic Violence Specialist may assist the family in referral to appropriate services.

All families accessing EA temporary emergency shelter on the basis of domestic violence should be provided by the Homeless Coordinator with a list of appropriate counseling and other domestic violence supportive services available in the geographic area, as required by the budget line item language. Any time that a family has been referred to a Domestic Violence Specialist, the Specialist's recommendations, including recommendations to access counseling or treatment or other available services, should be incorporated as part of the family's rehousing plan under 760 C.M.R. §67.06 (4) (b). Any treatment or counseling recommendations by a counselor or therapist seen by the family pursuant to a recommendation from the Domestic Violence Specialist should similarly be incorporated into the family's rehousing plan.

When a family becomes eligible for EA on the basis of homelessness due to domestic violence, the perpetrator may not later be added to the family composition as a proposed additional adult household member (PAAHM) pursuant to HSN 2010-01.

Presumptive Eligibility

Eligibility for EA based on domestic violence is subject to presumptive eligibility. See 760 C.M.R. § 67.06 (1) (c); DTA Field Operations Memo 2006-49. Therefore, an

applicant family that is not able to provide sufficient third-party written verifications, as detailed in the Summary, to establish eligibility at the time of application may supplement its third-party verifications by credible personal statements that, if relied on, would meet the standard of sufficiency required for EA eligibility based on homelessness due to domestic violence. Such a family must be otherwise EA-eligible to qualify for presumptive placement.

A family granted presumptive placement based on self-verification of domestic violence has 30 days from the date of grant of presumptive eligibility to provide sufficient credible third-party verifications, as detailed in the Summary, that domestic violence was the cause of the family's homelessness. Families who fail to provide sufficient third-party verifications of domestic violence as the cause of homelessness within 30 days of the grant of presumptive eligibility should be denied on the Form NFL-9-AD for failure to provide adequate verifications within 30 days of presumptive placement.

Disqualifications Still Apply

Eligibility for EA temporary emergency shelter on the basis domestic violence is one of several alternative qualifications for eligibility. A family must still be otherwise EA eligible. Just because an applicant family may meet the requirements for homelessness due to domestic violence does not negate the disqualifying factors involved in review of an EA application. An EA applicant family must still meet the other eligibility requirements of 760 C.M.R. § 67.02 and 760 C.M.R. § 67.06 (1), including the lack of feasible alternative housing. In addition, as with all other EA applications, none of the disqualifying factors listed in 760 C.M.R. § 67.02 (2), (3), (6), (8), or (11) or in 760 C.M.R. § 67.06 (2) may apply.

Conclusion

Domestic violence is a serious situation; however, assertions of domestic violence require reasonable verifications. This HSN attempts to strike a balance by allowing a wide variety of forms of third-party verification of domestic violence, which may be considered individually or together, but which must credibly prove that homelessness was caused by domestic violence. Homeless Coordinators need to be flexible, respectful, and considerate in reviewing applications based on homelessness due to domestic violence,

recognizing the acknowledged difficulties that families face when trying to seek help in leaving an abusive situation. The procedures outlined in this HSN should help guide Homeless Coordinators and applicants through the application process in these cases.